IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 419 OF 2006

Sachin Dattatraya Warghade. ...Applicant
V/s.
The State of Maharashtra. ...Respondent

Mr.Abhaykumar Apte for Applicant.
Mr.R.Y. Mirza, APP for the State.

CORAM : V.M. KANADE, J.

DATED : FEBRUARY 6, 2006

P.C. :-

. Heard learned Counsel for the applicant and learned APP for the State.

. The applicant was arrested in connection with an offence which was registered at Kothrud Police Station for the offence punishable under Sections 302, 427 read with Section 34 of the IPC. The alleged incident took place on 25th May, 2005. It is alleged that the applicant assaulted the deceased with stick and knife and this was witnesses by one lady who informed the brother of the deceased on telephone and thereafter, the brother of the deceased came to the spot of the incident and took the deceased to the hospital where he was

declared dead on admission.

2. It is submitted by the learned Counsel for the applicant that the applicant and the three other accused were allegedly arrested on 28th May, 2005 and it is the prosecution case that they were wearing the blood stained clothes on that day. It is further submitted that the statement of so called eye witness was recorded after four days. It is further submitted that there is discrepancy in the statement of the brother of the deceased and this eye witness. It is further submitted that the chargesheet has been filed in the present case and therefore, the applicant may be released on bail.

3. Learned APP appearing on the behalf of the State, on the other hand, submitted that there were merely 41 injuries on the person of the deceased and those injuries were in the nature of contused lacerated wounds which could have been caused by assault with the stick.

4. I have seen the statement of the brother of the

deceased as also the statement of the alleged eye witness. There is some discrepancy in the said statement. Apart from that, it is clear why the said eye witness had not reported the incident to the police and her statement has been recorded after some time. The brother of the deceased also does not state the name of this lady in the statement as a person who informed him about the said incident. Besides that, the chargesheet has also been filed and the investigation is completed. Considering these circumstances, the applicant is entitled to be released on bail.

5. The applicant be released on bail in the sum of Rs.5000/- with one or two sureties in the like amount. The applicant shall report to Kothrud Police Station twice in a month. The trial Court shall not be influenced by the observations of this Court while granting the application for bail.

. The application is disposed of.

(V.M. KANANDE, J.)